IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

ORDER
IN
S.B. Civil Second Appeal No.574/2006

Ramesh Chand S/o Shri Dhanna Lal
...defendant-appellant
Versus
Rajendra Jain S/o Shri Birdhi Lal
...plaintiff-respondent

Date of Order ::: 21.11.2006

Present
Hon'ble Mr. Justice Narendra Kumar Jain

Shri Pradeep Mathur, Advocate, for
Shri Deendayal Khandelwal, Counsel for appellant
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By the Court:-

Heard learned counsel for the defendant-appellant on the application under Section 5 of the Limitation Act for condonation of delay of 264 days in filing of the second appeal as well as on admission of the second appeal.

The plaintiff-respondent filed a suit for permanent injunction and injunction in mandatory form, which was dismissed by the lower court, but, on an appeal filed on behalf of the plaintiff, the first appellate court, while setting-aside the judgment and decree passed by the lower court, decreed the suit of the plaintiff, hence this second appeal has been

preferred on behalf of the defendant-appellant.

I have heard learned counsel for the defendant-appellant and after considering his submissions in the light of the finding of the first appellate court I find that the controversial issues involved in the present case relate to the question of fact and there is a finding of fact by the first appellate court, which cannot be interfered by this court in second appeal.

I have also considered the reasons given in the application under Section 5 of the Limitation Act for condonation of 264 days delay in filing the appeal and I find that no satisfactory explanation has been given for condonation of the delay in filing the appeal.

No substantial question of law is involved in this second appeal.

In the result, the application under Section 5 of the Limitation Act is dismissed. Consequently, the second appeal is also dismissed as barred by limitation as well as on merits, with no order as to costs.

(Narendra Kumar Jain) J.

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